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EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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## MCP TIMELINES AND FEES

This document summarizes the timelines and fees associated with response actions conducted pursuant to M.G.L. Chapter 21E and the Massachusetts Contingency Plan (MCP) 310 CMR 40.0000.

### MCP TIMELINES

The MCP establishes timelines for cleanups at all sites as well as timelines for specific types of response actions. **Figure 1** shows the general timelines for the MCP cleanup process.

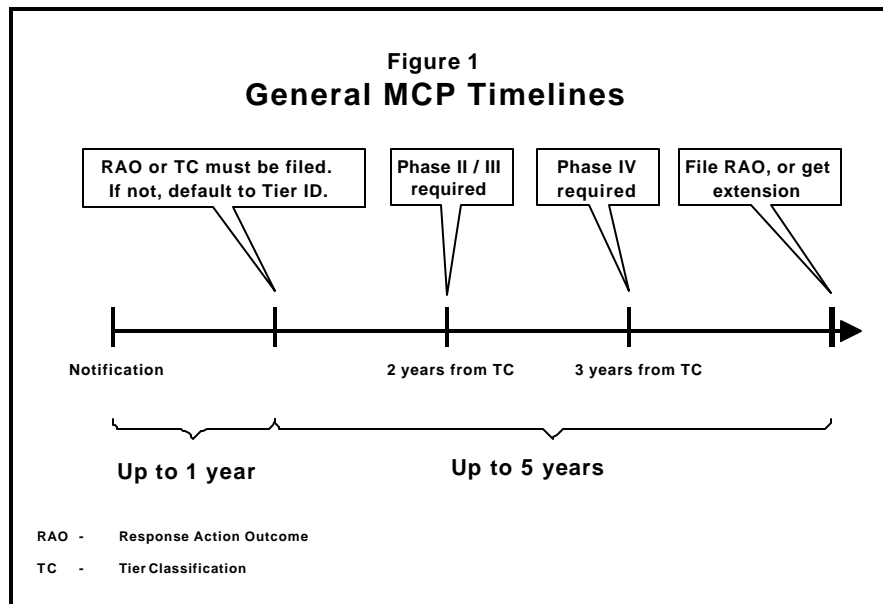
For all sites, the clock starts ticking when the Department of Environmental Protection (DEP) is notified of a potential or actual release of oil or hazardous material that exceeds a reporting threshold. Within one year,

the legally responsible person must either: (1) clean up the disposal site to MCP standards (i.e. achieve a Response Action Outcome or RAO), (2) obtain Downgradient Property Status (DPS), or (3) classify the disposal site as either Tier I (A, B, or C) or Tier II. **If an RAO or Tier Classification for the disposal site is not submitted to DEP by the one-year deadline, the site is deemed Tier ID by default.**

For sites that are Tier Classified, there are deadlines in the MCP for completing specific phases of the cleanup process, and for filing an RAO Statement. If an RAO cannot be achieved within the allowable timeframe, a Tier I Permit Extension or a Tier II Classification Extension must be obtained before cleanup work can continue.

### FILING SUBMITTALS

To ensure that cleanups are proceeding as required, the MCP requires completion of response actions and the submittal of certain documents to DEP within specific time frames. The appropriate DEP Regional Office stamps each document with the date on which it is received. Missed deadlines can result in requirements for additional documentation and in new or higher fees. For this reason, all documents should be mailed, hand-delivered or filed electronically (for submittals for which electronic filing is available) so they are received at the appropriate DEP Regional Office by the applicable deadlines. Because mail service can vary, however, the MCP



provides a seven-day grace period. If the date stamped by the appropriate DEP Regional Office is within seven days of the actual due date, DEP considers the submittal to be on time.

For example, the one-year deadline for the Tier Classification (or for filing an RAO) for a release reported on June 5, 2002 is June 5, 2003. Whether it is mailed or hand-delivered, the required document is considered on time if it is received by DEP on or before June 12, 2003. If the submittal is date-stamped June 13 or later, it is considered late. In this example, if the submittal is late, the site would be classified Tier ID by default and the party performing response actions in the first year would be assessed the Tier ID fee for the first year.

The grace period also applies to submittals made electronically. With electronic transmissions **only**, a printed copy of the complete document must be submitted to the appropriate regional office within 14 days of the original submittal due date to be considered received by DEP on time. Deadlines falling on a Saturday, Sunday, or legal holiday run to the end of the next business day. **Please note that there are some deadlines for which the seven-day “grace” period does not apply.** See 310 CMR 40.0008 for additional information regarding the grace period and exceptions.

### MCP FEES

To keep pace with private sector responses, DEP must audit individual cleanups to ensure that they are adequate and, review permit applications and make timely decisions. Two types of fees have been established in the “Timely Action Schedule And Fee Provisions” (310 CMR 4.00) to provide DEP with the resources it needs to get these jobs done:

- Annual Compliance Assurance Fees (ACFs), assessed for all disposal sites, cover a portion of the costs of DEP compliance and enforcement activities, including inspections and audits of response actions. There are two groups of ACFs:
  1. **One-time fees** apply to three specific submittals if filed within the first year after notification (i.e. before Tier Classification). These are: RAO Statement; DPS Submittal; Release Abatement Measure (RAM) Plan. One-time fees do not apply after Tier Classification (excluding RAOs filed within the first 90 days of the second year). **See Table 1.**
  2. **Annual fees** apply to all sites where the party conducting response actions has not submitted RAO Statement within one year of notification. Sites that are classified by default (i.e. the Tier Classification or RAO deadline is not met) are also subject to Annual Compliance Assurance Fees.
- Permit Application Fees for Tier I Permits, Extensions, Transfers and Major Modifications, and Grants of Environmental Restriction are paid by applicants to cover the costs of timely review and approval. DEP must refund these fees if it fails to meet the review timeline specified in 310 CMR 4.00.

These fees also create incentives for quicker cleanups. The sooner a party completes response actions at a disposal site and submits a Class A or B RAO, the lower the fees will be. Initiation of Phase V cleanup activities or submittal of a Class C RAO will trigger a lower annual fee category.

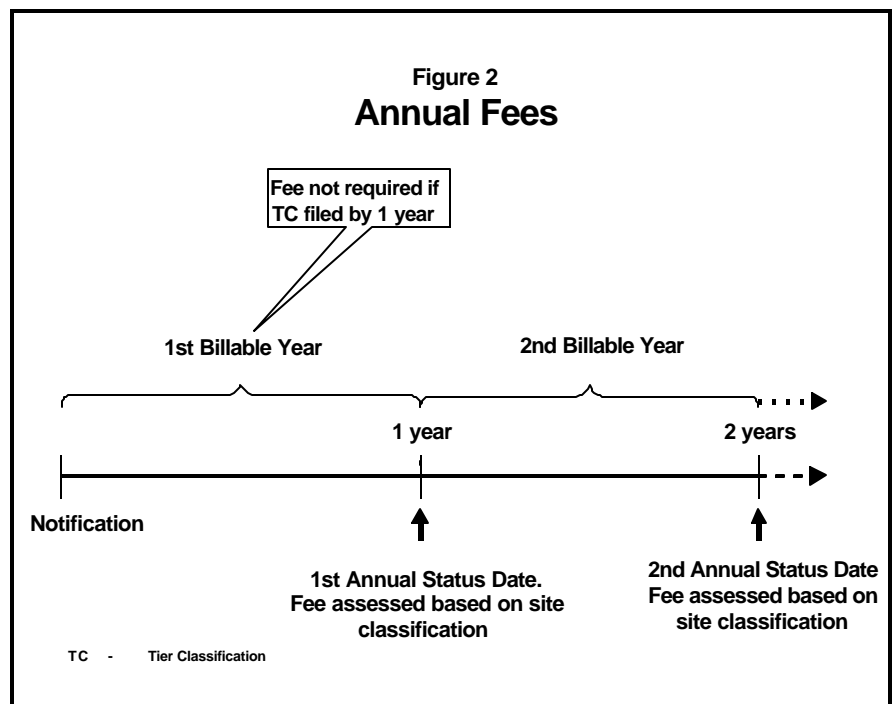
Annual Compliance Assurance Fees initially set in 1993 were increased effective June 27, 2003. The increases were based on increased DEP costs over ten years. Five new fee categories were adopted in 2003 for homeowners (see Homeowner summary below). Fee amounts are summarized in Table 2 at the end of this fact sheet.

TABLE 1: ONE-TIME FEES		
SUBMITTAL	TIME OF FILING	FEE
RAO	within 120 days of notification	no fee
RAO	after 120 days but prior to Tier Classification	\$1,200
RAO	after Tier Classification	no fee
RAO	within 90 days after 1 year deadline if not Tier Classified except by default to Tier ID	\$1,200 (in addition to separate Tier ID fee)
DPS	In first year, prior to Tier Classification	\$1,600
DPS	after Tier Classification (including default Tier ID)	no fee
RAM Plan	In first year, prior to Tier Classification	\$800
RAM Plan	after Tier Classification (including default Tier ID)	no fee

**Figure 2** shows how annual fees are assessed for Tier Classified sites. If an RAO Statement is not filed for the entire site in the first year, the site must be Tier Classified. As an added incentive to meet the one-year deadline, however, the first year fee is **not required** if a Tier Classification submittal is filed on time. If an RAO or Tier Classification is not filed, the site will be deemed Tier ID by default and the first year's fee will be invoiced at the Tier ID rate (\$4,000). Subsequent years will be billed based on the site classification (i.e. Tier II, Tier IB, default Tier ID, etc.) on the annual status date.

The fee amount is determined by a site's classification on its annual "status date" (which falls on the anniversary of initial notification). For example, if a Tier IB site is downgraded to Tier II one day prior to its status date, a Tier II fee will be assessed for the preceding year.

An Annual Compliance Assurance Fee is assessed for each year that a site is in the MCP system, **including** the year in which a Class A or B RAO Statement is filed with DEP. These fees cannot be pro-rated. For example, if an RAO is submitted to DEP fifteen days into the third billable year, the third year's fee will be assessed in full. A few days either way can cost (or save) an entire year's fee, so it is important to remain aware of and plan around a site's status date.



### Downgradient Property Status (DPS)

Parties who file a DPS submittal are required to pay fees until and including the year that the DPS is obtained. DPS is applicable to the party making the submittal. Other parties performing response actions at the site (such as a new owner or property developer) are subject to Annual Compliance Assurance Fee billing until they obtain an initial DPS or transfer an existing DPS if applicable. An RAO Statement is still required for a site where a DPS exists.

**Fees for Homeowners with Oil Releases**

DEP has adopted a lower schedule of rates for some fees applicable to homeowners performing work to cleanup an oil release. These rates are effective for billable years ending on or after June 27, 2003. To qualify for the reduced fee rate, a homeowner must submit a completed DEP Certification Form (BWSC-120) stating that they are performing response actions at the residential property that they own and occupy as their principal residence for six or more months per year. Additionally, the home must be one to four units and used exclusively as a residence.

**TABLE 2: SUMMARY OF MCP-RELATED PERMIT AND COMPLIANCE FEES**

(Based on 310 CMR 4.00)

Permit/Annual Compliance Fee Category	Permit Fee: Homeowner	Permit Fee: Non-Homeowner	Annual Compliance Fee: Homeowner	Annual Compliance Fee: Non-Homeowner
<b>Response Action Outcome (RAO)*</b>	-----	-----	<b>\$1,200</b>	<b>\$1,200</b>
<b>Release Abatement Measure (RAM)*</b>	-----	-----	<b>\$800</b>	<b>\$800</b>
<b>Downgradient Property Status (DPS) Submittal*</b>	-----	-----	<b>\$1,600</b>	<b>\$1,600</b>
<b>Tier IA Disposal Site</b>	<b>\$500</b>	<b>\$3,550</b>	<b>\$1,000</b>	<b>\$5,000</b>
<b>Tier IB Disposal Site</b>	<b>\$500</b>	<b>\$3,550</b>	<b>\$1,000</b>	<b>\$4,000</b>
<b>Tier IC Disposal Site</b>	<b>\$500</b>	<b>\$3,550</b>	<b>\$1,000</b>	<b>\$3,000</b>
<b>Tier ID Disposal Site</b>	-----	-----	<b>\$2,000</b>	<b>\$4,000</b>
<b>Permit: Major Modification, Extension or Transfer**</b>	<b>\$250</b>	<b>\$1,200</b>	-----	-----
<b>Tier II Disposal Site</b>	-----	-----	<b>\$1,000</b>	<b>\$2,000</b>
<b>Phase V Operation, Maintenance or Monitoring</b>	-----	-----	<b>\$800</b>	<b>\$800</b>
<b>Post-RAO Class C</b>	-----	-----	<b>\$800</b>	<b>\$800</b>
<b>Grant of Env. Restriction</b>	<b>\$1,050</b>	<b>\$1,050</b>	-----	-----
<b>Amendment of Env. Restriction</b>	<b>\$850</b>	<b>\$850</b>	-----	-----
<b>Release of Env. Restriction</b>	<b>\$650</b>	<b>\$650</b>	-----	-----

\*these are one-time fees (see page two)

\*\*multiple permit applications submitted concurrently for a single disposal site only require one application fee

All checks for fees should be made payable to **Commonwealth of Massachusetts**. For One-Time Fees and Permit Application Fees, the check and a copy of the first page of the applicable BWSC transmittal form should be mailed to: DEP, P.O. Box 4062, Boston, MA, 02211-4062. The original BWSC transmittal form, a photocopy of the check, and any supporting documentation should be sent to the appropriate DEP Regional Office. Payments for Annual Compliance Assurance Fee invoices should be mailed to: DEP, P.O. Box 3982, Boston, MA 02241-3982 with the top portion of the invoice. Please include address changes on the invoice remittance.

Visit DEP's web site at <http://mass.gov/dep/bwsc> for more information. If you have questions about the MCP or timelines and fees, please contact DEP at [BWSC.regulations@state.ma.us](mailto:BWSC.regulations@state.ma.us).